

## CONDITIONS FOR THE SALE OF GOODS AND/OR SERVICES

### General

FLONIDAN and the Customer have agreed that FLONIDAN shall provide the Goods and/or Services (as defined below) in accordance with these terms and conditions.

Whereby it is agreed as follows: -

### INTERPRETATION

#### 1.1 Definitions.

**In these Conditions, the following definitions apply:**

**FLONIDAN:** means Flonidan A/S, a company incorporated under the laws of Denmark with Company No. 89919916 whose registered office is situated at Islandsvej 29, 8700 Horsens, Denmark.

**Bespoke Warranty:** the element of any warranty relating only to quality and/or fitness and/or durability, where that warranty is provided by a supplier to FLONIDAN and where it relates to a complete product sold as Goods by FLONIDAN without alteration.

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in Denmark are open for business.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 12.6.

**Contract:** any contract between FLONIDAN and the Customer for the supply of Goods and/or Services made in accordance with these Conditions.

**Customer:** the individual, firm, Company or other party from whom an Order is received by FLONIDAN.

**Force Majeure Event:** has the meaning given in clause 11.

**Goods:** the goods (or any part of them) set out or referred to in the relevant Order or the Order acknowledgment issued by FLONIDAN (where there is a conflict between Order and Order acknowledgment the acknowledgment will prevail) or otherwise agreed as being the Goods by the parties.

**Order:** the Customer's order for the Goods.

**Services:** the services, supplied by FLONIDAN or its selected sub-contractor to the Customer as set out in the Service Specification below.

**Service Specification:** the description or specification for the Services provided in writing by FLONIDAN to the Customer.

**Specification:** any specification for the Goods that is agreed in writing by the Customer and FLONIDAN, or in the absence of agreement the specification for the Goods as set out in FLONIDAN's technical files.

**FLONIDAN Materials:** has the meaning set out in clause 7.1(g).

## **BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract (and to any sales of Goods and/or Services from FLONIDAN to the Customer) to the exclusion of any other conflicting terms and/or standard terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when FLONIDAN issues a written acceptance of the Order (or upon electronic confirmation for an Order), at which point the Contract shall come into existence.
- 2.4 The Customer is deemed to acknowledge that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of FLONIDAN.
- 2.5 Any samples, drawings, descriptive matter or advertising produced by FLONIDAN and any descriptions or illustrations contained in FLONIDAN catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 Any quotation given by FLONIDAN shall not constitute an offer. A quotation shall only be valid for a period of 60 Business Days from its date of issue.

## **GOODS**

- 3.1 The Goods are described in FLONIDAN's data sheets as set out on its website as modified by any applicable Specification.
- 3.2 FLONIDAN reserves the right to amend any Specification if required by any applicable statutory or regulatory requirements.

- 3.3 If the quoted price includes carriage, point of delivery will be deemed to take place at the point of entry to the Customer's works or site specified in the Contract. Unless otherwise stated, FLONIDAN will not be responsible for offloading. The method of carriage shall be selected by FLONIDAN at its discretion.
- 3.4 If the quoted price for the Goods does not include carriage, point of delivery will take place when the goods leave FLONIDAN's works, however transported.
- 3.5 All returnable containers, pallets and frames will be invoiced and must be paid for by the Customer at the time of payment for the Goods or otherwise as agreed in writing between FLONIDAN and the Customer. When returned, carriage paid, in good condition to FLONIDAN's works, full credit for these charged and returnable containers, pallets and frames will be made. This shall not apply to deliveries to overseas destinations.
- 3.6 Notwithstanding that property in the Goods shall not pass until payment, all Goods shall be at the risk of the Customer from the point of delivery.
- 3.7 Where the quoted price includes carriage, FLONIDAN shall not be liable for loss or damage in transit unless the notice of such loss or damage is given to the carriers and to FLONIDAN verbally within 24 hours and in writing within 5 days of point of delivery.
- 3.8 FLONIDAN is prepared to arrange specific types of carriage at the request and cost of the Customer as agent of the Customer only and without liability or obligation on the part of FLONIDAN.
- 3.9 If through instructions or lack of instructions from the Customer, FLONIDAN is unable to despatch the Goods within seven days after the date of notification that they are ready for despatch, the Goods will be deemed to have been delivered and FLONIDAN shall be entitled to arrange insurance and storage within its own works or elsewhere on behalf of the Customer and the Customer will pay FLONIDAN reasonable charges incurred for such insurance or storage. The goods shall be invoiced, and the customer must pay within the agreed terms of payment.
- 3.10 FLONIDAN is not responsible for export demurrage charges and/or customs charges or additional costs resulting from delay in unloading.
- 3.11 Any dates quoted for delivery of Goods are estimates and approximate only. No warranty is given for the specific time of delivery. Time of delivery is not of the essence. FLONIDAN shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide FLONIDAN with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods, or in any event any delay which is less than 4 months from the original estimated time of delivery.

- 3.12 If FLONIDAN fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. FLONIDAN shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide FLONIDAN with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 3.13 The Customer shall not be entitled to reject the Goods if FLONIDAN delivers up to and including 10% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Goods was delivered.
- 3.14 FLONIDAN may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## WARRANTY OF GOODS MANUFACTURED BY FLONIDAN

### 4.1

- (a) Save as set out in clause 4.1(b), FLONIDAN warrants that on the point of delivery, and (unless specifically agreed otherwise before order placement) for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall conform in all material respects with their description and any applicable Specification.
- (b) Where product has been supplied to FLONIDAN and then sold on as Goods without alteration, FLONIDAN will grant to the Customer any warranty identical to any Bespoke Warranty but expressly subject to FLONIDAN's additional limitations set out in clause 10.

### 4.2 Subject to clause 4.3, if:

- (a) the Customer gives notice in writing to FLONIDAN during the Warranty Period that some or all of the Goods do not comply with the warranty set out in clause 4.1;
- (b) FLONIDAN is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by FLONIDAN) returns such Goods to FLONIDAN's place of business or otherwise makes the Goods available in a safe and above ground location where FLONIDAN can reasonably undertake any remedial works necessary,

FLONIDAN shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

- 4.3 FLONIDAN shall not be liable for Goods' failure to comply with the warranty set out in clause 4.1 in any of the following events:
- (a) the Customer, and/or end user makes any further use of such Goods after giving notice in accordance with clause 4.2;
  - (b) the Customer, and/or end user and/or installer failed to follow FLONIDAN's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - (c) the Customer and/or end user and/or installer alters or repairs such Goods without the written consent of FLONIDAN; or
  - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 4.4 Save as provided in these Conditions, FLONIDAN shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

## **TITLE AND RISK**

- 5.1 The risk in the Goods shall pass to the Customer from the point of delivery.
- 5.2 Title to the Goods shall not pass to the Customer until:
- (a) FLONIDAN receives payment in full (in cash or cleared funds) for the Goods and any other goods that FLONIDAN has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; unless
  - (b) (in circumstances where the Customer is a mercantile agent and it resells the Goods in the normal course of trade); in which case title to the Goods shall pass to the Customer at the time specified in clause 5.4.
- 5.3 Until title to the Goods has passed to the Customer, the Customer shall:
- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as FLONIDAN property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

- (d) notify FLONIDAN immediately if it becomes subject to any of the events listed in clause 9.2; and
- (e) give FLONIDAN such information relating to the Goods as FLONIDAN may require from time to time.

5.4 Subject to clause 5.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before FLONIDAN receives payment for the Goods (as principal and not as FLONIDAN's agent) in which event title to the Goods shall pass to the Customer immediately before the time of resale. However, if the Customer resells the Goods before FLONIDAN receives payment for them the Customer will hold on trust for FLONIDAN so much of the proceeds of sale received by it, under contracts which include any of the Goods hereby sold either in their original or altered state, as are necessary to discharge payment in full to FLONIDAN

5.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2, then, without limiting any other right or remedy FLONIDAN may have:

- (a) the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
- (b) FLONIDAN may at any time:
  - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## **SUPPLY OF SERVICES**

- 6.1 FLONIDAN shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 6.2 Any performance dates specified by FLONIDAN for delivery or completion of the Services shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.3 FLONIDAN shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and FLONIDAN shall notify the Customer in any such event.

6.4 FLONIDAN warrants that the Services will correspond with their description. All implied terms pertaining to the skill and care with which the services are provided are expressly excluded.

## CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) ensure that the terms of the Order and (if submitted by the Customer) the Goods Specification and/or Service Specification are complete and accurate;
- (b) co-operate with FLONIDAN in all matters relating to the Services;
- (c) provide FLONIDAN, its employees, agents, consultants and sub-contractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by FLONIDAN to provide the Services;
- (d) provide FLONIDAN with such information and materials as FLONIDAN may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) at the customer's cost prepare in all material respects the property and/or area (if not owned or occupied by FLONIDAN) where the Services are to be deployed for the supply of the Services and prepare in all material respects any relevant items which are intended to be the subject of the Services so that the Services may begin on time and without delay or further preparatory work not specifically agreed and costed by FLONIDAN;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
- (g) keep and maintain all materials, equipment, documents and other property of FLONIDAN (**FLONIDAN Materials**) at the Customer's premises in safe custody at its own risk, maintain FLONIDAN Materials in good condition until returned to FLONIDAN, and not dispose of or use FLONIDAN Materials other than in accordance with FLONIDAN's written instructions or authorisation.

7.2 If FLONIDAN's performance of any of its obligations in respect of the Services or the Goods is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) FLONIDAN shall without limiting its other rights or remedies have the right to suspend performance of the Services and/or further delivery of the Goods until the Customer remedies the Customer Default, and FLONIDAN shall be relieved

from the performance of any of its obligations to the extent the Customer Default prevents or delays FLONIDAN's performance of any of its obligations;

- (b) FLONIDAN shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from FLONIDAN's failure or delay to perform any of its obligations caused directly or indirectly by a Customer Default; and
- (c) the Customer shall reimburse FLONIDAN on written demand for any costs or losses sustained or incurred by FLONIDAN arising directly or indirectly from the Customer Default.

## **CHARGES AND PAYMENT**

- 8.1 The price of the Goods shall be the price as agreed between the parties or, if no price is agreed, the price set out in FLONIDAN's published price list in force as at the date of delivery.
- 8.2 Unless otherwise agreed in writing, the price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods.
- 8.3 The charges for Services shall be as quoted by FLONIDAN. In the absence of FLONIDAN providing a quote or the parties otherwise agreeing the price FLONIDAN shall be entitled to charge a fair sum having regard to all the circumstances as if agreement had been reached between a willing buyer and seller.
  - (a) If extra works are required over and above that estimated by FLONIDAN when quoting for the services for any reason other than which is FLONIDAN's sole responsibility, then FLONIDAN shall be entitled to charge additional sums to that quoted on a pro rata basis. Similarly, if the works take longer than was anticipated by FLONIDAN or are delayed for any reason other than which is FLONIDAN's sole responsibility FLONIDAN may charge additional sums on a pro-rata basis.
  - (b) FLONIDAN shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom FLONIDAN engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by FLONIDAN for the performance of the Services, and for the cost of any materials.



8.4 FLONIDAN reserves the right to:

- (a) adjust the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to FLONIDAN that is due to:
  - (i) any factor beyond the control of FLONIDAN (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
  - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give FLONIDAN adequate or accurate information or instructions in respect of the Goods.

8.5 FLONIDAN shall be entitled to invoice the Customer for each delivery.

8.6 The Customer shall:

- (a) prepay each invoice submitted by FLONIDAN; or
- (b) if credit has been agreed in writing, pay each invoice submitted by FLONIDAN within 30 days of the invoice date, such invoice date not to be earlier than the actual delivery date.

Each invoice shall be paid in full and in cleared funds to a bank account nominated in writing by FLONIDAN.

8.7 The price of the Goods and/or Services is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from FLONIDAN, pay to FLONIDAN such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

8.8 If the Customer fails to make any payment due to FLONIDAN under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

8.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). FLONIDAN may at any time, without limiting any other rights or remedies it may

have, set-off any amount owing to it by the Customer against any amount payable by FLONIDAN to the Customer.

## **TERMINATION AND SUSPENSION**

9.1 If the Customer becomes subject to any of the events listed in clause 9.2, FLONIDAN may terminate the Contract with immediate effect by giving written notice to the Customer.

9.2 For the purposes of clause 9.1, the relevant events are:

- (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing or (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (d) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (e) (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;

- (g) (being an individual) the Customer is the subject of a bankruptcy petition or order;
  - (h) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2(a) to clause 9.2(f) (inclusive);
  - (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - (k) the Customer's financial position deteriorates to such an extent that in FLONIDAN's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
  - (l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs.
- 9.3 Without limiting its other rights or remedies, FLONIDAN may suspend provision of the Goods and/or Services under the Contract or any other contract between the Customer and FLONIDAN if the Customer becomes subject to any of the events listed in clause 9.2(a) to clause 9.2(l), or FLONIDAN reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due to FLONIDAN on the due date for payment. FLONIDAN shall have no liability to the Customer for suspension properly exercised under this clause.
- 9.4 Either party may terminate the Contract by giving ten (10) days' notice if the other party commits a material breach of the Contract and fails to remedy such breach within thirty (30) days of receipt of written notice from the non-defaulting party.
- 9.5 On termination of the Contract for any reason the Customer shall immediately pay to FLONIDAN all of FLONIDAN's outstanding unpaid invoices and interest.
- 9.6 Termination of the Contract, however arising, shall not affect either of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 9.7 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

**LIMITATION OF LIABILITY**

- 10.1 The limitations in this clause 10 shall apply to all Contracts between FLONIDAN and the Customer.
- 10.2 Nothing in these Conditions shall limit or exclude FLONIDAN liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - (b) fraud or fraudulent misrepresentation; or
  - (c) any matter in respect of which it would be unlawful for FLONIDAN to exclude or restrict liability.
- 10.3 Subject to clause 10.2 FLONIDAN shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
- (a) any loss of profit; or
  - (b) loss of business, depletion of goodwill and/or similar losses; or
  - (c) loss of anticipated savings; or
  - (d) loss of goods; or
  - (e) loss of contract; or
  - (f) loss of use; or
  - (g) loss or corruption of data or information; or
  - (h) any loss of government grant or similar financial allocation; or
  - (i) any loss of trust status or similar; or
  - (j) any special loss;
  - (k) any indirect loss;
  - (l) any consequential loss; or
  - (m) any pure economic loss, costs, damages, charges or expenses.
- 10.4 FLONIDAN's maximum aggregate liability in any 12-month Contract year to the Customer in contract, tort or otherwise (including any liability for any negligent act or omission) howsoever arising out of or in connection with the Contract is limited to the value of all Orders made in that 12-month Contract year.

## **FORCE MAJEURE**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, a latent defect in a component or product not revealed by any testing prior to manufacture or delivery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions.

## **GENERAL**

### **12.1 Assignment and other dealings**

- (a) FLONIDAN may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of FLONIDAN.

### **12.2 Notices**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action. For the purpose of this clause "writing" shall not include emails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by email.

**12.3 Severance**

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**12.4 Waiver**

A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**12.5 Third party rights**

A person who is not a party to the Contract shall not have any rights to enforce its terms.

**12.6 Variation**

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by FLONIDAN.

**12.7 Governing law and venue**

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of Denmark.

Any dispute or claim arising out of or in connection with these Conditions shall be referred to and resolved by binding arbitration. Arbitration shall be conducted in accordance with the rules of The Danish Institute of Arbitration in force at the time when such proceedings

are commenced. The place of arbitration shall be Aarhus, Denmark. English shall be the language used during any such proceedings unless otherwise agreed between the parties. In addition to the aforesaid, either party is entitled to seek injunctive relief by a competent court as may be necessary to restrain any breach or threatened breach of these Conditions by the other party.